SINGLE BENCH

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(1)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR.

WRIT PETITION NO. 3518 **OF 2005**

PETITIONER : Harishchadra S/o Deviprasad Jaisawal Aged about 51 years R/o Village Gursiya , Tah. Katghora , Distt. Korba (C.G.)

Plaintiff

V E R S U S

RESPONDENT : Vijay pal Sing , S/o Govind Sing aged about years, R/o Village - Gursiya , Tah. Katghora, Distt. Korba (C.G.)

Defendant

1596/05

P.R. No.....
Presented by Shri P. Tiwari
dated 12.04.05

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर 46

आदेश पत्रक

मामला क्रमांक ..W.P.N.O..3518 **सन्** **2005**

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	3-8-2005 Heard Shri Rakesh Pandey, counsel for the petitioner. The instant writ petition has been filed by the petitioner under Article 227 of the Constitution of India questioning the legality, propriety and correctness of the order dated 5th March 2005 passed by the District Judge, Korba whereby learned District Judge rejected the Misc. Appeal filed by the petitioner herein against the order dated 28-7-99. Brief facts relevant for the disposal of this petition are that the petitioner herein field civil suit against the respondent for declaration. The said suit was dismissed in default on 9-7-97 and thereafter an application for restoration was filed on 23-9-97 after the expiry of limitation, and an application in support of that under Section 5 of the Limitation Act was also filed for condonation of delay in filing the application for restoration of the civil suit. Learned Judge in the first instance rejected the application under Section 5 of the Limitation Act on 25-6-99 and thereafter dismissed the application for restoration on 28-7-99. The petitioner herein had not challenged in appeal the order of dismissal of the application under Section 5 of the Limitation Act, therefore, that order attained the finality. However, the petitioner challenged the order dismissing the application dated 28-7-99 before learned District Judge and learned District Judge rejected the appeal on the ground that since the order rejecting the limitation application has not been challenged, therefore, application for restoration became time barred and the same was dismissed on 28-7-99. In view of the above, I do not find any illegality or infirmity in the above order. The writ petition is liable to be dismissed and it is accordingly dismissed. Consequently, I. A. No.6680/2005 also stands disposed of. **Sd/-** **L.C. Bhadoo** **Judge**	

Bahrel